

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JO-HANNA READ as Guardian ad Litem  
for KOBE KEMP, a minor, and  
MARCELUS KEMP, individually,

Plaintiffs,

v.

GRACO CHILDREN'S PRODUCTS, INC.  
and its parent company, NEWELL  
BRANDS INC., MERCEDES-BENZ USA,  
LLC, and its parent company, DAIMLER  
AG, and LINDSAY MILLEA, jointly and  
individually,

Defendants.

No. 2:20-cv-00901-MJP

DEFENDANTS' MOTION TO REMAND  
REMOVED ACTION AND PROPOSED  
ORDER

(King County Superior Court Case Number  
20-2-08713-1 KNT)

**MOTION**

GRACO CHILDREN'S PRODUCTS, INC. ("Graco"), NEWELL BRANDS INC.  
("Newell"), and MERCEDES-BENZ USA, LLC ("MBUSA") (together "Removing  
Defendants") move for remand of this case to the King County Superior Court because diversity  
of citizenship no longer exists.<sup>1</sup>

//

//

<sup>1</sup> It is Removing Defendants understanding that Plaintiffs do not oppose remand of this case. To the extent Plaintiffs do intend to oppose remand, we will notice this motion for consideration.

DEFENDANTS' MOTION TO REMAND REMOVED ACTION - 1

1 On or about May 11, 2020, Plaintiffs filed *Read, et al. v. Graco Children's Products, et*  
2 *al.*, Case No. 20-2-08713-1 KNT, in the Superior Court of Washington, in and for King County.  
3 Plaintiffs served MBUSA with the Complaint on May 12, 2020.

4 MBUSA wishes to advise this Court that plaintiffs' counsel has refused to communicate  
5 with MBUSA's counsel about this case, including specific inquiries made about service on the  
6 non-diverse defendant prior to MBUSA's last day to remove this case on diversity grounds.

7 On May 12, 2020, MBUSA's national counsel telephoned plaintiffs' counsel to discuss  
8 the case generally. Plaintiffs' counsel never returned the call – and national counsel provided his  
9 personal cell number. Then, on May 15, 2020, national counsel for MBUSA emailed plaintiffs'  
10 counsel in another attempt to discuss the case. (Ex. A hereto.) Plaintiffs' counsel did not  
11 respond.

12 With a removal deadline of June 11, 2020, on June 8, 2020, MBUSA's retained counsel  
13 emailed a letter to plaintiffs' counsel specifically asking whether defendant Lindsay Millea, an  
14 alleged Washington resident, had been served. (Ex. B hereto.) Plaintiffs' counsel did not  
15 respond any time prior to June 11, 2020 suggesting that Ms. Millea had been served. Indeed, on  
16 June 9, 2020, plaintiffs' counsel sent a letter to counsel for MBUSA, Graco and Newell only,  
17 which further suggested Ms. Millea had not been served. (Ex. C hereto.)

18 Counsel for MBUSA emailed plaintiffs' counsel again on June 10, 2020, and placed a  
19 telephone call to them that same day, in a final attempt to determine whether plaintiffs had  
20 served Ms. Millea. Plaintiffs' counsel did not reply to the email or return the call. As a result,  
21 Removing Defendants removed the case to this Court on diversity grounds on June 11, 2020, and  
22 served plaintiffs' counsel with the removal papers. Following service of the Notice of Removal,  
23 plaintiffs' counsel for the first time on June 14, 2020 asserted that Ms. Millea had been served on  
24 June 3, 2020, and provided a purported proof of service to that effect.

25 Notwithstanding the refusal of plaintiffs' counsel to respond to MBUSA's specific  
26 inquiry about the status of any service on Ms. Millea before the removal deadline, Removing

DEFENDANTS' MOTION TO REMAND REMOVED ACTION - 2

Defendants now agree that diversity of citizenship no longer exists. Plaintiffs' counsel has been unwilling to agree to an appropriate stipulation for remand, so Removing Defendants submit this motion to accomplish that and avoid wasting federal judicial resources. Accordingly, this case should be remanded to the King County Superior Court.

Dated: June 22, 2020

Dated: June 22, 2020

STOEL RIVES LLP

CORR CRONIN LLP

/s/ Maren R. Norton

Maren R. Norton, WSBA No. 35435  
600 University Street, Suite 3600  
Seattle, WA 98101  
Telephone: 206.624.0900  
Facsimile: 206.386.7500  
maren.norton@stoel.com

/s/ Blake Marks-Dias

Blake Marks-Dias, WSBA No. 28169  
John T. Bender, WSBA No. 49658  
1001 Fourth Avenue, Suite 3900  
Seattle, WA 98154  
Telephone: 206.625.8600  
Facsimile: 206.625.0900  
bmarksdias@corrchronin.com  
jbender@corrchronin.com

*Attorneys for Defendant Mercedes-Benz USA,  
LLC*

Dated: June 22, 2020

SCHIFF HARDIN LLP

/s/ Stephen M. Copenhaver

Stephen M. Copenhaver, WSBA No. 47631  
233 South Wacker Drive, Suite 7100  
Chicago, IL 60606  
Telephone: 312.258.5648  
Facsimile: 312.258.5600  
scopenhaver@schiffhardin.com

*Attorneys for Defendants Graco Children's  
Products Inc. and Newell Brands Inc.*

1 **ORDER**

2 Pursuant to the motion set forth above, the Court having reviewed that motion and good  
3 cause appearing, orders as follows:

4 1. Western District of Washington case number 2:20-cv-00901-MJP styled READ  
5 ET AL. v. GRACO CHILDREN'S PRODUCTS, INC., ET AL., is hereby remanded to the King  
6 County Superior Court;

7 2. Each party shall bear her/his/its own costs and attorneys' fees with respect to the  
8 removal and subsequent remand.

9  
10 IT IS SO ORDERED.

11 Dated: July 22, 2020

  
UNITED STATES DISTRICT JUDGE